

**IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN  
DISTRICT OF WEST VIRGINIA  
at Wheeling**

**PROGRESSIVE MINERALS, LLC,**

**Plaintiff,**

**v.**

**Case No. 5:07-CV-108**

**MUHAMMAD HAROON RASHID,  
GERALD D. HENDRIX, DAVID M.  
BERNSTEIN, JOHN DOUGLAS  
REYNOLDS, JOHN C. CROSBIE and  
JUDE O'NURKERA,**

**Defendants.**

**MOTION TO DISMISS OF  
DEFENDANTS DAVID M. BERNSTEIN,  
JOHN DOUGLAS REYNOLDS AND JOHN C. CROSBIE**

Pursuant to Rule 12(b) of the Federal Rules of Civil Procedure, Defendants David M. Bernstein, John Douglas Reynolds and John C. Crosbie, based upon the attached Memorandum of Law and Declaration of David M. Bernstein, dated November 19, 2007; Declaration of John C. Crosbie, dated November 15, 2007; and Declaration of John Douglas Reynolds, dated, November 19, 2007, and the exhibits annexed thereto and the pleadings and proceedings heretofore had herein, Defendants, David M. Bernstein, John Douglas Reynolds and John C. Crosbie, will move this Court for dismissal of the Complaint filed against them for lack of personal jurisdiction.

The moving defendants also seek sanctions, including attorney fees and costs in the defense of this action, pursuant to Rule 11 of the Federal Rules of Civil Procedure, against Plaintiff and its counsel, David W. Parham, and Baker & McKenzie, LLP.

WHEREFORE, the moving defendants pray that the Complaint be dismissed, that

the costs of defense be awarded, including attorney fees, and for such other relief as the Court may deem just and necessary

By: 

Counsel for Moving Defendants

Patrick S. Casey (W. Va. Bar No. 668)  
BURNS, WHITE & HICKTON, PLLC  
32 20th Street  
Maxwell Centre, Suite 200  
Wheeling, WV 26003  
(304) 233-9500  
(304) 233-1363 (fax)

Edward C. Kramer, Esq. (pro hac admission pending)  
EDWARD C. KRAMER, P.C.  
488 Madison Avenue, Suite 1100  
New York, NY 10022  
(212) 490-1616  
(212) 490-2888 (fax)

**CERTIFICATE OF SERVICE**

Service of the foregoing MOTION TO DISMISS OF DEFENDANTS DAVID M. BERNSTEIN, JOHN DOUGLAS REYNOLDS AND JOHN C. CROSBIE was had upon the parties, as addressed below, this 21<sup>st</sup> day of November, 2007.

David W. Parham, Esq.  
Elliot D. Schuler, Esq.  
BAKER & MCKENZIE, LLP  
2300 Trammell Crow Center  
2001 Ross Avenue  
Dallas, TX 75201

Mark A. Carter, Esq. (W. Va. Bar No. 4316)  
DINSMORE & SHOHL, LLP  
900 Lee Street  
Huntington Square, Suite 600  
Charleston, WV 25301

Denise D. Klug, Esq., (W. Va. Bar. No. 6620)  
DINSMORE & SHOHL, LLP  
1115 Main Street  
Wheeling, WV 26003  
Counsel for Plaintiff Progressive Minerals, LLC

Muhammad Haroon Rashid  
5821 Southwest Freeway, Suite 500  
Houston, TX 77057

Jude O'Nurkera  
6260 Indian River Drive  
Norcross, GA 30092

Gerald Hendrix  
15455 Ella Boulevard, #48  
Houston, TX 77090

By: \_\_\_\_\_  
Counsel for Moving Defendants

